

§ 4206.5

29 CFR Ch. XL (7–1–05 Edition)

§ 4206.5 Amount of credit in plans using the modified presumptive method.

(a) *General.* In a plan that uses the modified presumptive method described in section 4211(c)(2) of ERISA, the credit shall equal the sum of the unamortized old liabilities determined under paragraph (b) of this section, multiplied by the fractions described or determined under paragraph (c) of this section. When an employer's prior partial withdrawal liability has been reduced or waived, this credit shall be adjusted in accordance with § 4206.8.

(b) *Unamortized old liabilities.* The amounts described in this paragraph shall be determined as of the end of the plan year preceding the withdrawal for which the credit is being calculated, and are the employer's proportional shares, if any, of—

(1) The plan's unfunded vested benefits as of the end of the last plan year ending before September 26, 1980, reduced as if those obligations were being fully amortized in level annual installments over 15 years beginning with the first plan year ending on or after such date; and

(2) The aggregate post-1980 change amount determined under section 4211(c)(2)(C) of ERISA as if the employer had completely withdrawn in the year of the prior partial withdrawal, reduced as if those obligations were being fully amortized in level annual installments over the 5-year period beginning with the plan year in which the prior partial withdrawal occurred.

(c) *Employer's allocable share of old liabilities.* The sum of the amounts determined under paragraph (b) are multiplied by the two fractions described in this paragraph in order to determine the amount of old liabilities that was previously assessed against the employer.

(1) The first fraction is the fraction determined under section 4206(a)(2) of ERISA for the prior partial withdrawal.

(2) The second fraction is a fraction, the numerator of which is the amount of the liability assessed against the employer for the prior partial withdrawal, and the denominator of which is the product of—

(i) The amount of unfunded vested benefits allocable to the employer as if it had completely withdrawn as of the date of the prior partial withdrawal (determined without regard to any adjustments), multiplied by—

(ii) The fraction determined under section 4206(a)(2) of ERISA for the prior partial withdrawal.

§ 4206.6 Amount of credit in plans using the rolling-5 method.

In a plan that uses the rolling-5 allocation method described in section 4211(c)(3) of ERISA, the credit shall equal the amount of the liability assessed for the prior partial withdrawal, reduced as if that amount was being fully amortized in level annual installments over the 5-year period beginning with the plan year in which the prior partial withdrawal occurred. When an employer's prior partial withdrawal liability has been reduced or waived, this credit shall be adjusted in accordance with § 4206.8.

§ 4206.7 Amount of credit in plans using the direct attribution method.

In a plan that uses the direct attribution allocation method described in section 4211(c)(4) of ERISA, the credit shall equal the amount of the liability assessed for the prior partial withdrawal, reduced as if that amount was being fully amortized in level annual installments beginning with the plan year in which the prior partial withdrawal occurred, over the greater of 10 years or the amortization period for the resulting base when the combined charge base and the combined credit base are offset under section 412(b)(4) of the Code. When an employer's prior partial withdrawal liability has been reduced or waived, this credit shall be adjusted in accordance with § 4206.8.

§ 4206.8 Reduction of credit for abatement or other reduction of prior partial withdrawal liability.

(a) *General.* If an employer's withdrawal liability for a prior partial withdrawal has been reduced or waived, the credit determined pursuant to §§ 4206.4 through 4206.7 shall be adjusted in accordance with this section.

(b) *Computation.* The adjusted credit is calculated by multiplying the credit

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determined under the preceding sections of this part by a fraction—

(1) The numerator of which is the excess of the total partial withdrawal liability of the employer for all partial withdrawals in prior years (excluding those partial withdrawals for which the credit is zero) over the present value of each abatement or other reduction of that prior withdrawal liability calculated as of the date on which that prior partial withdrawal liability was determined; and

(2) The denominator of which is the total partial withdrawal liability of the employer for all partial withdrawals in prior years (excluding those partial withdrawals for which the credit is zero).

§ 4206.9 Amount of credit in plans using alternative allocation methods.

A plan that has adopted an alternative method of allocating unfunded vested benefits pursuant to section 4211(c)(5) of ERISA and part 4211 of this chapter shall adopt, by plan amendment, a method of calculating the credit provided by § 4206.3 that is consistent with the rules in §§ 4206.4 through 4206.8 for plans using the statutory allocation method most similar to the plan's alternative allocation method.

§ 4206.10 Special rule for 70-percent decline partial withdrawals.

For the purposes of applying the rules in §§ 4206.4 through 4206.9 in any case in which either the prior or subsequent partial withdrawal resulted from a 70-percent contribution decline (or a 35-percent decline in the case of certain retail food industry plans), the first year of the 3-year testing period shall be deemed to be the plan year in which the partial withdrawal occurred.

PART 4207—REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

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§ 4207.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe rules, pursuant to section 4207(a) of ERISA, for reducing or waiving the withdrawal liability of certain employers that have completely withdrawn from a multiemployer plan and subsequently resume covered operations under the plan. This part prescribes rules pursuant to which the plan must waive the employer's obligation to make future liability payments with respect to its complete withdrawal and must calculate the amount of the employer's liability for a partial or complete withdrawal from the plan after its reentry into the plan. This part also provides procedures, pursuant to section 4207(b) of ERISA, for plan sponsors of multiemployer plans to apply to PBGC for approval of plan amendments that provide for the reduction or waiver of complete withdrawal liability under conditions other than those specified in section 4207(a) of ERISA and this part.

(b) *Scope.* This part applies to multiemployer plans covered under title IV of ERISA, and to employers that have completely withdrawn from such plans after September 25, 1980, and that have not, as of the date of their reentry into the plan, fully satisfied their obligation to pay withdrawal liability arising from the complete withdrawal.

§ 4207.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: employer, ERISA, IRS, Multiemployer Act, multiemployer plan, nonforfeitable benefit, PBGC, plan, and plan year.

In addition, for purposes of this part:

Complete withdrawal means a complete withdrawal as described in section 4203 of ERISA.